

1983 Form

In the United States District Court **FILED**  
For the Northern District of Alabama

MAR 21 A 10:43  
U.S. DISTRICT COURT  
N.D. OF ALABAMAGERMAINE SMART, AIS #193127

4:19-cv-471-MHH-JHE

(Enter above the full name(s) of the  
Plaintiff(s) in this action)

V

RONALD ENGLAND, and THEALABAMA DEPARTMENT OFCORRECTIONS, et al.(Enter above the full name(s) of the  
Defendant(s) in this action)

## I. Previous lawsuits

- A. Have you begun other lawsuits in state or federal court(s) dealing with the same facts involved in this action or otherwise relating to your imprisonment? Yes ( ) No (X)
- B. If you answer to A. is "yes", describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuit(s) on another piece of paper, using the same outline.)

## 1. Parties to this previous lawsuit

Plaintiff(s): N/ADefendant(s): N/A

## 2. Court (if Federal Court, name the district; if State Court, name the county)

N/A3. Docket Number N/A4. Name of judge to whom case was assigned N/A

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

N/A

6. Approximate date of filing lawsuit N/A

7. Approximate date of disposition N/A

II. Place of present confinement St. Clair Correctional Facility

- A. Is there a prisoner grievance procedure in this institution?

Yes ( ) No (X)

- B. Did you present the facts relating to your complaint in the state prisoner grievance procedure?

Yes ( ) No (X)

- C. If your answer is YES:

1. What steps did you take? N/A

2. What was the result? N/A

- D. If your answer is NO, explain why not? N/A

III. Parties

In item A below, place your name(s) in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.

- A. Name of plaintiff(s) Germaine Smart, AIS #193127

Address SCCF - 1000 St. Clair Road; Springville, Alabama 35146

B. Defendant Ronald D. England

at Alabama Department of Corrections

C. Additional Defendants Alabama Department of Corrections

State here, as briefly as possible, the FACTS of your case. Describe how each defendant is involved. Include, also, the names of other persons involved, dates and places. *Do not give any legal arguments or cite any cases or Statutes.* If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheets, if necessary.

See attached pleadings beginning on page 5

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

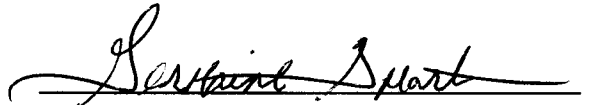
V. RELIEF

State briefly *exactly* what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

The Plaintiff seeks \$200,00.00 dollars in punitive damages for being sexually  
assaulted by Defendant England; and \$100,000.00 dollars in punitive damages  
where Defendant England retaliated against Plaintiff for reporting the sexual  
assault. Additionally, the Plaintiff requests that the Defendant ADOC, be ordered  
to take disciplinary action against Defendant England, and to pay all costs  
associated with this cause of action.

"I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 14, 2019  
(date)



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature(s)

## CLAIM I.

### STATEMENT OF THE FACTS

The basis of the foregoing complaint/cause of action is that, "*'Acting Under Color of Law' and under the guise of his position of authority as a corrections officer, the Defendant, Alabama Department of Corrections Officer/Sergeant Ronald D. England<sup>1</sup>, sexually assaulted the Plaintiff, Germaine Smart, in a violation of the Eighth Amendment of the United States Constitution and the Prison Rape Elimination Act.*"

On or about September 6, 2016, at approximately 9:00 p.m., the Plaintiff Smart was in his assigned cell (C-5), lying on his bunk when inmates began hollering that officers were entering the cell-block. A few minutes later Sergeant Ronald D. England (Sergeant England), arrived at Smart's cell, knocked on the door and ordered him strip down to his boxers and to stick his arms out of the hole to cuff-up for a shakedown.

Plaintiff Smart did as he was instructed and after he was handcuffed, the cell door was opened and he stepped out. Sergeant England then ordered Smart to turn around and he began to physically frisk search Smart around his boxers. As Sergeant England was frisk searching Smart he began to fondle Smarts penis and scrotum.

Sergeant England's actions startled Smart and Smart stated to him, "What the fuck are you doing grabbing my dick and nuts" ... "I'm not gay!"

Sergeant England snickered, stopped groping Smarts genitals and told him to stand to the side. He then went into Smarts cell and conducted a search of his property. No contraband was found and Smart was put back in the cell without further incident.

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<sup>1</sup> At the time of the incident(s) giving rise to this complaint, Defendant Ronald England held the rank of Corrections Officer/Sergeant.

On or about September 8, 2016, Plaintiff Smart made a formal complaint to Captain Gary Malone regarding the incident with Sergeant England and he (Captain Malone), reported the incident to the Alabama Department of Corrections *Inspections & Investigations Division*.

An investigation of Smart's complaint was conducted by Alabama Department of Corrections, *Inspections and Investigations Investigator* George Bynum.

Investigator Bynum came to the St. Clair Correctional Facility to interview Smart and Smart gave him a statement regarding the incident with Sergeant England. Smart also provided Investigator Bynum with the names of several witnesses who could verify his accusations against Sergeant England which included inmate Timothy Gayle, AIS #255812; inmate Franky Johnson, AIS #196870; **and** Corrections Officer Cameron N. Smith.<sup>2</sup>

Investigator Bynum completed his investigation on or about March 6, 2017, and disposed of Smarts complaint against Sergeant England by finding that Smarts complaint was 'unfounded' and the investigation was 'closed.'

## CLAIM II.

### **STATEMENT OF THE FACTS**

The basis of the foregoing complaint/cause of action is that, "*'Acting Under Color of Law' and under the guise of his authority as a corrections officer, the Defendant, Sergeant England, retaliated against the Plaintiff, Germaine Smart for reporting the incident of sexual assault, by falsely accusing, and charging Smart in a prison disciplinary report with violating Rule #512 (Lying), which resulted in a loss of privileges and confinement in disciplinary segregation. See; **PLAINTIFF EXHIBIT #1***

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<sup>2</sup> To the best of my knowledge, Investigator Bynum interviewed each of the witnesses.

On or about March 15, 2017, the Defendant, Sergeant England initiated a prison disciplinary report against the Plaintiff Smart for the offense of 'Lying' pursuant to Rule #512, from the Alabama Department of Corrections Administrative Regulation #403.

On March 20, 2017, a *disciplinary hearing* was held wherein *contrary to the testimony provided by Smart's witnesses*, Smart was found guilty of the charged offense by Lieutenant Larry R. Baker.

In adjudging Smart guilty of 'lying' Lt. Baker found that, "*Inmate Smart allegation against Sgt. England is unfounded.*" "*The Hearing Officer believe the sworn testimony of Sgt. England. The Hearing Officer accept the finding of I & I Investigator Bynum.*"<sup>3</sup>

Lt. Baker imposed a punishment of 30 days loss of canteen privileges; 30 days loss of telephone privileges; 30 days loss of visitation privileges; and 21 days in Disciplinary Segregation.

The disciplinary action and imposed punishment was *unusually* approved of, on the same date as the disciplinary hearing, *i.e.*, March 20, 2017, by Captain Gary Malone, the Officer to whom Plaintiff Smart had initially reported his complaint(s) of sexual assault against Sergeant England.

**WHEREFORE**, pleadings and premises being duly considered, the Plaintiff respectfully moves this Honorable Court for a '*liberal construction*' of the above *pro se* pleadings so as to do substantial justice in this cause of action.

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<sup>3</sup> Plaintiff Exhibit #1, page 2



## Alabama Department of Corrections

DISC006

## DISCIPLINARY REPORT

403A Final

PLAINTIFF EXHIBIT #1

Incident Report Number: SCCF-16-01367

1. Inmate: SMART, GERMAINE Custody: MEDIUM AIS: 00193127X

2. Institution: ST. CLAIR CORRECTIONAL FAC. Disc #: SCCF-16-01367-1

3. The above inmate is being charged by: ENGLAND, RONALD D  
with a violation of the following Rule(s):  
512 - Lying  
From Administrative Regulation #403, which occurred on or about:  
Sep 8 2016 11:40AM at Captain Malone's Office

A hearing on this charge will be held after 24 hours from being served.

## 4. Circumstances of the violation(s) are as follows:

You inmate Germaine Smart B/M 193127 made an allegation against Sergeant Ronald England on 09/09/2016. Further Investigation by I & I Investigator George Bynum completed his investigation on 03/06/2017. Disposition Showed this case "Unfounded and Closed". Therefore, you are being charged for Lying.

09/08/2016

Date

ENGLAND, RONALD D / Sergeant

Arresting Officer Name / Title

5. I hereby certify that on this 15th day of March, 2017, at (time) 13:03:00, I have personally served a copy of the foregoing upon the above named inmate and I have informed the inmate of his/her right to present oral or written statement at the hearing and to present written questions for the witnesses.

SANTA-MARIA, RAFAEL P

Serving Officer Name / Title

Inmate Refused to Sign

Inmate's Signature / AIS Number

6. Witnesses desired? NO: YES: See Signed 403A (1-4)

Inmate's Signature Inmate's Signature

7. If yes, list: GAYLE, TIMOTHY / 00255812  
JOHNSON, FRANKY / 00196870X  
SMITH, CAMERON N

8. Hearing Date: March 20, 2017 Time: 14:51:00 Place: Segregation Office

9. Inmate must be present in Hearing Room. If he / she is not present, explain in detail on additional page and attach.

10. The Arresting Official, Inmate, and all Witnesses were sworn to tell the truth.

BAKER, LARRY R

Hearing Officer Name / Title

11. A finding is made that the inmate is capable of representing himself / herself.

BAKER, LARRY R

Hearing Officer Name / Title

12. Plea: SMART, GERMAINE / 00193127X Not Guilty

## 13. Arresting Official's testimony (at the hearing):

"On September 9, 2016, I Sergeant Ronald England conducted a pat search of inmate Germaine Smart B/193127 C-5 cell. After the search, inmate Smart alleged that I Sgt. England grabbed his genitals inappropriately. I & I conducted an investigation into the incident and found that the allegations were unfounded."

## 14. Inmate's testimony:



## DISCIPLINARY REPORT CONTINUATION SCCF-16-01367-1

403A Final

"My statement is the same report I reported to I & I, I disagree with I & I findings."

14a Witness: GAYLE, TIMOTHY / 00255812

Testimony: "Sgt. England ran to 5 cell and told inmate Smart to cuff up. They didn't shake down nothing but black inmates. Sgt. England reach around and grabbed inmate Smart penis."

14a Witness: JOHNSON, FRANKY / 00196870X

Testimony: "Yes, I saw Sgt. England grab inmate Smart penis"

14a Witness: SMITH, CAMERON N

Testimony: "Yes, I heard inmate Smart make the allegation that Sgt. England grabbed his penis."

15. The inmate was allowed to submit question(s) to all witnesses. Copy of questions and answers are attached.

BAKER, LARRY R

Hearing Officer Name / Title

16. The following witnesses were not called:

17. After hearing all of the testimony, the Hearing Officer makes the following findings of fact (Be Specific):

The hearing Officer finds that:

inmate Smart allegation against Sgt. England is unfounded.

18. Basis for finding of fact:

The hearing officer believe the sworn testimony of Sgt. England. The hearing officer accept the finding of I & I investigator Bynum.

19. Hearing Officer's decision: ☒ Guilty ☐ Not Guilty ☐ Recommend for reinitiation

20. Hearing Officer's recommendation of sanction(s) to be taken against this inmate:

☐ Counseling / Warning

☐ Extra Duty for \_\_\_\_ days at \_\_\_\_ hours per day under supervision \_\_\_\_ Shift

☐ Loss of Outside privileges for \_\_\_\_ days

**Community Based Institutions Only:**

☒ Loss of Canteen privileges for 30 days, as of 04/02/2017

☐ Draw cut to \_\_ (min \$25) for \_\_ days

☒ Loss of Telephone privileges for 30 days, as of 05/17/2017

☐ Restriction / State Whites for \_\_\_\_ days

☒ Loss of Visiting privileges for 30 days, as of 05/17/2017

☐ Loss of Passes for \_\_\_\_ days

☐ Removal from Hobby Craft

☐ Return to Inmate Staff for \_\_\_\_ days

☐ Loss of Good Time \_\_\_\_ Yrs \_\_\_\_ Mos \_\_\_\_ Dys

☒ Disciplinary Seg for 21 days

☐ Recommend Custody Review

☐ Recommend Job Change

☐ Financial Compensation \_\_\_\_

BAKER, LARRY R

Hearing Officer Name / Title

21. Warden's Action - Date: 03/20/2017

Approved

Gary Malone

Amj

Smart  
193127

SCCF-16-013671

Dean

Question For witness:

Timothy Gayles - did you see what happen between  
Mr. Smart and England on 9-9-2016? ~~Sgt England~~

yes

Did you see Sergeant England grab and Fumble with  
Germaine Smart Penis? yes

Frankie Johnson did you see England grab Mr. Smart  
Penis? yes

Officer Smith did you hear when Germaine Smart  
make out burst about Sergeant England grabbing and  
Fondling with his penis. yes